

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

LOUIS THOMAS

PLAINTIFF

VS.

CIVIL ACTION NO. 3:09cv465 TSL-FKB

MAJOR MARY RUSHING, et al.

DEFENDANTS

ORDER

This cause came on this date to be heard upon the report and recommendation of the United States magistrate judge, and the court, having fully reviewed the report and recommendation of the United States magistrate judge entered in this cause on or about July 28, 2010, and being duly advised in the premises, finds that said report and recommendation should be adopted as the opinion of this court.

IT IS, THEREFORE, ORDERED that the report and recommendation of United States Magistrate F. Keith Ball entered on July 28, 2010, be, and the same is hereby, adopted as the finding of this court. That defendants' [16] motion to dismiss should be denied as moot, and this cause should be dismissed without prejudice based upon plaintiff's failure to prosecute.

A separate judgment will be entered herein in accordance with this Order as required by Rule 58 of the Federal Rules of Civil Procedure.

IT IS SO ORDERED, this the 19th day of August, 2010.

/s/Tom S. Lee

UNITED STATES DISTRICT JUDGE